

AMENDED IN ASSEMBLY MAY 12, 2016
AMENDED IN ASSEMBLY APRIL 19, 2016
AMENDED IN ASSEMBLY APRIL 12, 2016
AMENDED IN ASSEMBLY MARCH 30, 2016
AMENDED IN ASSEMBLY MARCH 28, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1993

Introduced by Assembly Member Irwin

February 16, 2016

An act to add Section 1524.4 to the Penal Code, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1993, as amended, Irwin. Corporate law enforcement contacts.

Existing law authorizes a court or magistrate to issue a warrant for the search of a place and the seizure of property or things identified in the warrant if there is probable cause to believe that specified grounds exist. ~~Existing law also establishes procedures for certain California corporations when served with a warrant issued by a court in another state.~~

~~This bill would require, by July 1, 2017, service providers to provide, among other things, an exclusive process for emergency disclosure requests. The bill would require those corporations to file a statement with the Attorney General identifying a corporate law enforcement contact or contacts, as specified. The bill would require the Attorney General to distribute to local law enforcement agencies information~~

describing how to access each of the corporate law enforcement contacts created from the statements that he or she receives.

This bill would require service providers, as defined, to maintain a law enforcement contact process that meets specified criteria and, by July 1, 2017, file a statement with the Attorney General describing that process. The bill would require a service provider to file a statement with the Attorney General describing any material change to its process as soon as practicable after making that change. The bill would require the Attorney General to consolidate the statements received pursuant to these provisions in one discrete record and regularly make that record available to law enforcement agencies. The bill would make the statements confidential and prohibit their disclosure pursuant to any state law. By increasing the duties of local law enforcement agencies to maintain confidential records, the bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1524.4 is added to the Penal Code, to*
2 *read:*

3 1524.4. (a) *This section applies to a service provider, as*
4 *defined in subdivision (j) of Section 1546, that operates in*
5 *California. This section does not apply to a service provider that*
6 *does not offer services to the general public.*

7 (b) (1) *Every service provider described in subdivision (a) shall*
8 *maintain a law enforcement contact process that meets the criteria*
9 *set forth in paragraph (2).*

10 (2) *Every service provider described in subdivision (a) shall*
11 *ensure, at a minimum, that its law enforcement contact process*
12 *meets all of the following criteria:*

13 (A) *Provides a specific contact mechanism for law enforcement*
14 *personnel.*

15 (B) *Provides continual availability of the law enforcement*
16 *contact process.*

17 (C) *Creates a method to provide status updates to a requesting*
18 *law enforcement agency on a request for assistance, and the name*
19 *of, and a direct means of communicating with, the individual*
20 *responsible for processing the request.*

21 (3) *Every service provider described in subdivision (a) shall,*
22 *by July 1, 2017, file a statement with the Attorney General*
23 *describing the law enforcement contact process maintained*
24 *pursuant to paragraph (1). If a service provider makes a material*
25 *change to its law enforcement contact process, the service provider*
26 *shall, as soon as practicable, file a statement with the Attorney*
27 *General describing its new law enforcement contact process.*

28 (c) *The Attorney General shall consolidate the statements*
29 *received pursuant to this section into one discrete record and*
30 *regularly make that record available to local law enforcement*
31 *agencies.*

32 (d) *The exclusive remedy for a violation of this section shall be*
33 *an action brought by the Attorney General for injunctive relief.*
34 *Nothing in this section shall limit remedies available for a violation*
35 *of any other state or federal law.*

36 (e) *A statement filed or distributed pursuant to this section is*
37 *confidential and shall not be disclosed pursuant to any state law,*
38 *including, but not limited to, the California Public Records Act*

1 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*
2 *Title 1 of the Government Code).*

3 *SEC. 2. The Legislature finds and declares that Section 1 of*
4 *this act, which adds Section 1524.4 to the Penal Code, imposes a*
5 *limitation on the public's right of access to the meetings of public*
6 *bodies or the writings of public officials and agencies within the*
7 *meaning of Section 3 of Article I of the California Constitution.*
8 *Pursuant to that constitutional provision, the Legislature makes*
9 *the following findings to demonstrate the interest protected by this*
10 *limitation and the need for protecting that interest:*

11 *In order to protect the internal processes of private businesses*
12 *from unnecessary intrusion and facilitate contact between law*
13 *enforcement and private businesses regarding access to*
14 *information that will protect public health and safety, it is*
15 *necessary to limit access to statements filed by service providers*
16 *that describe the service providers' law enforcement contact*
17 *processes.*

18 *SEC. 3. The Legislature finds and declares that Section 1 of*
19 *this act, which adds Section 1524.4 to the Penal Code, furthers,*
20 *within the meaning of paragraph (7) of subdivision (b) of Section*
21 *3 of Article I of the California Constitution, the purposes of that*
22 *constitutional section as it relates to the right of public access to*
23 *the meetings of local public bodies or the writings of local public*
24 *officials and local agencies. Pursuant to paragraph (7) of*
25 *subdivision (b) of Section 3 of Article I of the California*
26 *Constitution, the Legislature makes the following findings:*

27 *By facilitating contact between law enforcement and service*
28 *providers regarding access to information that will protect public*
29 *health and safety, by appropriately limiting access to internal*
30 *business processes, this bill furthers the purpose of paragraph (7)*
31 *of subdivision (b) of Section 3 of Article I of the California*
32 *Constitution.*

33 *SEC. 4. No reimbursement is required by this act pursuant to*
34 *Section 6 of Article XIII B of the California Constitution because*
35 *the only costs that may be incurred by a local agency or school*
36 *district under this act would result from a legislative mandate that*
37 *is within the scope of paragraph (7) of subdivision (b) of Section*
38 *3 of Article I of the California Constitution.*

39 ~~SECTION 1. Section 1524.4 is added to the Penal Code, to~~
40 ~~read:~~

1 ~~1524.4. (a) This section applies to a corporation operating in~~
2 ~~California that is a service provider, as defined in subdivision (j)~~
3 ~~of Section 1546, that generates customer data for 1,000,000 or~~
4 ~~more people annually. This section does not apply to a service~~
5 ~~provider that does not offer services to the general public.~~

6 ~~(b) (1) A corporation described in subdivision (a) shall designate~~
7 ~~a corporate law enforcement contact that is, or contacts that are,~~
8 ~~responsible for the requirements established pursuant to paragraph~~
9 ~~(1) of subdivision (c). Those requirements may be fulfilled by~~
10 ~~means of an Internet Web portal, telecommunications, or any~~
11 ~~combination of those communication methods. If a corporate law~~
12 ~~enforcement contact is no longer employed by the corporation, the~~
13 ~~corporation shall forthwith designate any new corporate law~~
14 ~~enforcement contact or contacts.~~

15 ~~(2) Every corporation described in subdivision (a) shall, at least~~
16 ~~annually, file a statement with the Attorney General identifying~~
17 ~~the corporate law enforcement contact or contacts designated~~
18 ~~pursuant to paragraph (1). If a corporation designates any new~~
19 ~~corporate law enforcement contact or contacts pursuant to~~
20 ~~paragraph (1), the corporation shall forthwith file a statement with~~
21 ~~the Attorney General identifying the new corporate law~~
22 ~~enforcement contact or contacts.~~

23 ~~(c) (1) By July 1, 2017, service providers shall, at a minimum,~~
24 ~~provide the following through their law enforcement contact or~~
25 ~~contacts:~~

26 ~~(A) An exclusive process for emergency disclosure requests.~~

27 ~~(B) Exclusive access and service for law enforcement personnel.~~

28 ~~(C) An ability to comply with a law enforcement request for~~
29 ~~information regardless of the location of the data.~~

30 ~~(D) Continual availability of the law enforcement contact or~~
31 ~~contacts.~~

32 ~~(E) The authority to make decisions regarding warrants and the~~
33 ~~disclosure of information and data.~~

34 ~~(2) The Attorney General shall, annually, distribute information~~
35 ~~describing how to access each of the corporate law enforcement~~
36 ~~contacts created from the statements that he or she receives~~
37 ~~pursuant to paragraph (2) of subdivision (b) to local law~~
38 ~~enforcement agencies.~~